

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
Bemus Point Central School District Bemus Point, New York	)	File No. SLD-239526
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21
	)	

**ORDER**

**Adopted: August 1, 2003**

**Released: August 4, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Bemus Point Central School District (Bemus Point), Bemus Point, New York, seeks review of a November 9, 2001 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> For a review of decisions by SLD issued on or after August 13, 2001, appeals to the Commission must be filed within 60 days of the issuance of the SLD decision date.<sup>2</sup> Here, Bemus Point filed its appeal on February 20, 2002, 2001, after the 60-day period, in contravention of our rules.<sup>3</sup> We therefore dismiss the appeal.

<sup>1</sup> Letter from Susan G. Gauch, Bemus Point Central School District, to Federal Communications Commission, filed February 20, 2002 (Request for Review); Letter from the School and Libraries Division, Universal Service Administrative Company, to Susan G. Gauch, Bemus Point School District, dated November 9, 2001; 47 C.F.R. § 54.719(c).

<sup>2</sup> 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

<sup>3</sup> On January 7, 2003, the Commission released an Order giving all schools and libraries that filed Requests for Review with the Commission during the disruption in mail service the opportunity to re-submit their Request for Review along with an affidavit. Bemus Point failed to re-submit its Request for Review. *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 68 FR 4105, January 28, 2003. Bemus Point does not deny that it filed its appeal late, but states that the appeal was tardy because of overworked staff. Request for Review at 1.

2. To the extent that Bemus Point additionally asks us to waive our rules in this instance, we also must deny its request.<sup>4</sup> Bemus Point states that the delay was due to overworked staff.<sup>5</sup> Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.<sup>6</sup> Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.<sup>7</sup> Staffing problems do not rise to the level of special circumstances required for a deviation from the rule.<sup>8</sup>

3. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Request for Review filed on February 20, 2002, by Bemus Point Central School District, Bemus Point, New York, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>4</sup> 47 C.F.R. § 54.720(b).

<sup>5</sup> Request for Review.

<sup>6</sup> 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>7</sup> *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8.

<sup>8</sup> *See, e.g., Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 10910 (Com. Car. Bur. 2001).